

JUL 20 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NO: 97-03799

COUNSEL: None

HEARING DESIRED: Yes

[REDACTED]

Applicant requests her record be changed to show she declined to participate in the Reserve Component Survivor Benefit Plan (RCSBP) when she was first eligible. Applicant's submission is at Exhibit A.

The appropriate Air Force office evaluated applicant's request and provided an advisory opinion to the Board recommending the application be denied (Exhibit C). The advisory opinion was forwarded to the applicant for review and response (Exhibit D). As of this date, no response has been received by this office.

After careful consideration of applicant's request and the available evidence of record, we find insufficient evidence of error or injustice to warrant corrective action. The facts and opinions stated in the advisory opinion appear to be based on the evidence of record and have not been rebutted by applicant. Absent persuasive evidence applicant was denied rights to which entitled, appropriate regulations were not followed, or appropriate standards were not applied, we find no basis to disturb the existing record. Accordingly, applicant's request is denied.

However, Public Law (PL) 105-85 (effective 17 May 1998) provides an opportunity for retirees to terminate participation in the SBP beginning on the second anniversary of their receipt of retired pay. For further information, applicant should contact the Retiree Services Branch (AFPC/DPPTR) at 1-800-531-7502.

The applicant's case is adequately documented and it has not been shown that a personal appearance with or without counsel will materially add to our understanding of the issues involved. Therefore, the request for a hearing is not favorably considered.

The Board staff is directed to inform applicant of this decision. Applicant should also be informed that this decision is final and will only be reconsidered upon the presentation of new relevant evidence which was not reasonably available at the time the application was filed.

Members of the Board Mr. Henry C. Saunders, Mrs. Barbara A. Westgate, and Mr. David C. Van Gasbeck considered this application on 16 July 1998 in accordance with the provisions of Air Force Instruction 36-2603 and the governing statute, 10 U.S.C. 1552.

A handwritten signature in cursive script, appearing to read "Henry C. Saunders", written in black ink.

HENRY C. SAUNDERS
Panel Chair

Exhibits:

- A. Applicant's DD Form 149
- B. Available Master Personnel Records
- C. Advisory Opinion
- D. SAF/MIBR Ltr Forwarding Advisory Opinion



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR RESERVE PERSONNEL CENTER

18 FEB 1990

MEMORANDUM FOR AFBCMR

FROM: HQ ARPC/DR
6760 E Irvington Place #3000
Denver CO 80280-3000

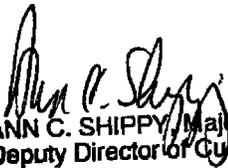
SUBJECT: Application for Correction of Military Records [REDACTED]
[REDACTED]

1. The requested correction cannot be accomplished administratively at this headquarters.
2. The member is requesting that her record be changed to show she declined to participate in the Reserve Component Survivor Benefit Plan (RCSBP) when she was first eligible.
3. The following is an analysis of the circumstances surrounding the case:
 - a. The member made an election for spouse only with full, immediate coverage (Option **CA**), effective 27 Jun 95.
 - b. The member states that at the time she made her election under the RCSBP, she was erroneously counseled by her **MPF** as to the options and irrevocability of the election. She also makes several references to Air Force Instruction (AFI) 36-3006, Survivor Benefit Plan (SBP) and Supplemental Survivor Benefit Plan (SSBP). This AFI pertains to SBP, an active duty program that is different from RCSBP. It does not include detailed information on the RCSBP. Air Force Reserve and Air National Guard members receive an RCSBP package directly from the Air Reserve Personnel Center (ARPC) approximately 30 days after receiving their Notification of Eligibility for Retired Pay at Age 60 Letter.
4. The member was mailed complete information to make an RCSBP election. This package covers all aspects of the plan, including how to fill out the ARPC Form 123 and the irrevocability of an election in accordance with Title 10, United States Code, Section 1448. The package also contained phone numbers for her to contact if she had any questions or needed any assistance in preparing elections. There are **no** provisions of law to allow withdrawal from the RCSBP.

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5. Recommendation: Recommend the member's request be denied. The member was provided all the necessary information to make an informed decision. If the decision is to grant the relief sought, the member's record should be corrected to show she declined RCSBP coverage (Option A) effective 22 Jun 95.

6. Action officer is Mr. Marvin Silva, HQ ARPC/DRSE, DSN 926-6438. He can also be reached by fax at DSN 926-6357 and by e-mail at msilva@arpcmail.den.disa.mil.


ANN C. SHIPPY, Major, USAF
Deputy Director of Customer Assistance